City of Lafayette Staff Report

For:	Lafayette City Council
By:	Juliet Hansen, Program Manager
Date Written:	May 7, 2009
Meeting Date:	May 11, 2009
Subject:	Amending the Lamorinda School Bus Transportation Agency's Joint Powers Authority Agreement to add Piedmont Unified School District

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Background

The Piedmont Unified School District (PUSD) has requested assistance with school bus transportation over the next three years. The district is repairing and retrofitting three elementary schools and has elected to transport students from Piedmont to a site in Emeryville during reconstruction. The Lamorinda School Bus Transportation Agency (LSBTA) considered this request at three meetings. On May 6, 2009 it voted to provide this service and to amend its joint powers authority (JPA) agreement.

Discussion

In order to provide transportation, the LSBTA must add the PUSD to its JPA and all members of the original JPA must sign the documents. Member agencies include the Cities of Lafayette and Orinda, the Town of Moraga, the Lafayette and Moraga School Districts and the Acalanes and Orinda Union School Districts. (As you may recall, the Acalanes Union High School District was added to the JPA a few years ago in order to provide school bus service to high school students.)

The transportation arrangement with the PUSD is advantageous to the LSBTA because it will allow the LSBTA to collect more revenue. (It will charge an administrative fee of $65 per day, per bus.) It is advantageous to the PUSD because it will receive the LSBTA's negotiated daily rate with First Student, and will benefit from the LSBTA's expertise in administering a school bus program.

Amendment Three to the JPA Agreement adds the PUSD for a period of three years and also adds indemnification language. The Lamorinda agencies agree to indemnify the PUSD and the PUSD agrees to indemnify the Lamorinda agencies.

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Summary

The PUSD has requested transportation of its elementary students for a period of three years during reconstruction of three elementary schools. The LSBTA can provide this service for an administrative fee of $65 per day, per bus. The arrangement is beneficial for both parties. On May 6, 2009 the LSBTA voted to provide this service and to amend its joint powers authority (JPA) agreement.

Recommendation

Review and approve Amendment Three to the LSBTA's Joint Powers Authority Agreement.

THIRD AMENDMENT TO AGREEMENT

This Third Amendment to the Joint Exercise of Powers Agreement to provide school bus services ("Third Amendment") is made as of the ____ day of _____, 2009, by and between the City of Lafayette, Town of Moraga, the City of Orinda, the Lafayette School District, the Moraga School District, the Orinda School District, the Acalanes Unified High School District, and the Piedmont Unified School District. The parties are sometimes individually referred to as "Party" and collectively as "Parties."

RECITALS

A. On July 13, 1994, a joint exercise of powers agreement was executed to provide for school bus services between the City of Lafayette, Town of Moraga, the City of Orinda, the Lafayette School District, the Moraga School District, and the Orinda School District ("Agreement").

B. On July 18, 1997, the Agreement was amended to revise the establishment and designation of the Board of Directors ("First Amendment").

C. On August 21, 2007, the Agreement was amended to include the Acalanes Unified High School District as a member agency and provide transportation services to students in grades K-12 ("Second Amendment").

D. The Parties now desire to further amend the Agreement to include the Piedmont Unified School District as a member agency for a period of three (3) years starting with the 2009-2010 school year and to provide for indemnification above the Agency's insurance limits.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH IN THIS AMENDMENT AND OTHER VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. Parties. Section 2 is hereby amended to include the Piedmont Unified School District as a party to the Agreement for three school years (consecutive or non-consecutive) starting with the 2009-2010 school year and shall be referred to as "School Districts".

2. Funds and Expenditures. Section 15 (d) of the Agreement is hereby amended in its entirety to read as follows:

> "No party is required to contribute funds except those grant funds it may receive for the exclusive use of the Agency or payments for use of the bus program for field or athletic trips. Notwithstanding the following, for each school year in which Piedmont Unified School District is a party to this

Agreement it shall contribute to the Agency for its annual use of the bus program an amount mutually agreed upon by the Agency and the Piedmont Unified School District to be paid to the Agency in two installments. The first installment shall be paid no later than July 1st for the following school year and the second installment shall be paid no later than January 31st for the current school year."

3. Liability. Section 16(e) of the Agreement is hereby amended in its entirety to read as follows:

"The extent any claims, suits, actions, damages, losses, liabilities, and expenses exceed the amount of Agency's insurance:

The Municipalities and School Districts (excepting Piedmont Unified School District) shall indemnify, defend and hold harmless Piedmont Unified School District its officers, trustees, directors, agents and employees from all claims, suits, actions, damages, loss, liability and expenses (including attorney's fees and court costs) for loss of life or bodily or personal injury, or property damage, such damage or loss resulting, in any manner solely or partially, from any cause or condition of property, equipment, vehicles or facilities under the control of Agency that occurs within the jurisdiction of the Municipalities and/or School Districts (excepting Piedmont Unified School District), or resulting from the use of such property, equipment vehicles or facilities or from the act, neglect, fault or omission of Agency's officers, trustees, employees, agents, contractors, or invitees that occurs within the jurisdiction of the Municipalities and/or School Districts (excepting Piedmont Unified School District).

Piedmont Unified School District shall indemnify, defend and hold harmless the Municipalities and School Districts, their officers, trustees, directors, agents and employees and each of them from all claims, suits, actions, damages, loss, liability and expenses (including attorney's fees and court costs) for loss of life or bodily or personal injury, or property damage, such damage or loss resulting, in any manner solely or partially, from any cause or condition of property, equipment, vehicles or facilities under the control of Agency that occurs within the jurisdiction of the Piedmont Unified School District, or resulting from the use of such property, equipment vehicles or facilities or from

the act, neglect, fault or omission of Agency's officers, trustees, employees, agents, contractors, or invitees that occurs within the jurisdiction of Piedmont Unified School District."

Section 16(f) is hereby added to read as follows:

"The Agency shall insure itself and each party from loss, liability, and claims arising out of or in any way connected with this Agreement."

4. No Other Amendments. Except as set forth in this Third Amendment to the Agreement, the First Amendment, Second Amendment, and the Agreement remain in full force and effect according to its terms.

5. Incorporation of Amendment. From and after the effective date of this Third Amendment, wherever the term "Agreement" appears in the Agreement, it shall be read and understood to mean the Agreement as amended by the First Amendment, Second Amendment, and this Third Amendment.

6. Counterparts. This Third Amendment may be executed in counterparts, each of which shall constitute an original.

IN WITNESS WHEREOF, the Parties have executed this Third Amendment as of the date first written above.

[Signatures on the following pages]

City of Lafayette

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Mayor

Attest:

_____

City Clerk

Town of Moraga

_____

Mayor

Attest:

_____

Town Clerk

City of Orinda

_____

Mayor

Attest:

_____

City Clerk

Lafayette School District

_____
President, Governing Board

Attest:

_____
Secretary, Governing Board

Moraga School District

_____
President, Governing Board

Attest:

_____
Secretary, Governing Board

Orinda School District

_____
President, Governing Board

Attest:

_____
Secretary, Governing Board

Acalanes Unified High School District

_____
President, Governing Board

Attest:

_____
Secretary, Governing Board

Piedmont Unified School District

_____

President, Governing Board

Attest:

_____

Secretary, Governing Board